

the project with respect to subpart B of this part, or a person or organization that has been formally designated or retained by an organization of the project's tenants to represent the tenants with respect to subpart B of this part.

Termination of Low Income Affordability Restrictions. The elimination of low income affordability restrictions under the regulatory agreement through termination of mortgage insurance or prepayment of the mortgage.

Transfer Preservation Equity. The transfer preservation equity of a project is:

- (1) The transfer preservation value of the project determined under §248.111; less
- (2) The outstanding balance of the federally-assisted mortgage(s) for the project.

Transfer Preservation Rent. For purposes of receiving incentives pursuant to a sale of the project, transfer preservation rent shall be the gross income for the project that would be required to support:

- (1) Debt service on the loan for acquisition of the project;
- (2) Debt service on any rehabilitation loan for the project;
- (3) Debt service on the federally-assisted mortgage(s) for the housing;
- (4) Project operating expenses; and
- (5) Adequate reserves.

Transfer Preservation Value. The fair market value of the project based on its highest and best use.

Very Low Income Families. Families or persons whose incomes do not exceed the level established for very low income families under §813.102 of this title.

Voluntary Termination of Mortgage Insurance. The termination of all rights under the mortgage insurance contract and of all obligations to pay future insurance premiums.

[57 FR 12041, Apr. 8, 1992, as amended at 57 FR 57314, Dec. 3, 1992; 58 FR 37814, July 13, 1993; 59 FR 14369, Mar. 28, 1994]

§ 248.103 General prepayment limitation.

(a) *Prepayment.* An owner of eligible low income housing may prepay, and a mortgagee may accept prepayment of,

a mortgage on such project only in accordance with a plan of action approved by the Commissioner.

(b) *Termination.* A mortgage insurance contract with respect to eligible low income housing may be terminated pursuant to §207.253 of this chapter only in accordance with a plan of action approved by the Commissioner.

(c) *Foreclosure.* A mortgagee of a mortgage insured by the Commissioner may foreclose the mortgage on, or acquire by deed in lieu of foreclosure, any eligible low income housing only if the mortgagee also conveys title to the project to the Commissioner in connection with a claim for insurance benefits.

(d) *Effect of unauthorized prepayment.* A mortgagee's acceptance of a prepayment in violation of paragraph (a) of this section, or the voluntary termination of a mortgage insurance contract in violation of paragraph (b) of this section, shall be null and void and any low income affordability restrictions on the project shall continue to apply to the project.

(e) *Remedies for unauthorized prepayment.* A mortgagee's acceptance of a prepayment in violation of paragraph (a) of this section, or attempt to obtain voluntary termination of a mortgage insurance contract in violation of paragraph (b) of this section, is grounds for administrative action under parts 24 and 25 of this title, in addition to any other remedies available by law, including rescission of the prepayment or reinstatement of the insurance contract.

§ 248.105 Notice of intent.

(a) *Eligibility for filing.* An owner of eligible low income housing intending to prepay the mortgage or voluntarily terminate the mortgage insurance contract pursuant to §248.141, extend the low income affordability restrictions of the housing in accordance with §248.153, or transfer the housing to a qualified purchaser under §248.157, may file a notice of intent unless the mortgage covering the project—

- (1) Continued in default or fell into default on or after the November 28, 1990, and the mortgage has been assigned to the Commissioner as a result of such default;